

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

Complaint on Electronic Postmark®

Docket No. C2004-2

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS FOTI
TO INTERROGATORIES OF DIGISTAMP (DS/USPS-RT1-1 - 4)
(August 4, 2006)

The United States Postal Service hereby provides the response of witness Foti to the following interrogatories of DigiStamp, filed on July 21, 2006: DS/USPS- RT-1 – 4. An objection to Question 2.3 was filed on July 31, 2006. A motion to compel was filed on August 3, 2006. Rather than quibble as to whether the motion to compel merely clarified the original question, or in fact posed a new question, witness Foti is simply answering the question in light of the new information provided in the motion to compel.

Each interrogatory is stated verbatim and is followed by the response.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.
Chief Counsel, Ratemaking

Eric P. Koetting

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-2992, FAX -5402
August 4, 2006

RESPONSE OF POSTAL SERVICE WITNESS FOTI TO INTERROGATORIES OF DIGISTAMP

DS/USPS-RT1-1. On page 3, line 19, through page 4, line 8, you state:
“During 1995, Technology Applications commissioned focus group research on the project. . . . [T]he participants were receptive to the concept of applying a secure neutral-party time and date stamp to an electronic message, but only if the time and date stamping were conducted by an organization that had the trust and respect of individuals, as well as, [sic] business and government. When the focus group asked participants to name likely candidates to operate such a service, several well-known firms, such as IBM, AT&T and others, were mentioned. When the moderator then added several other potential providers, including the United States Postal Service, the participants’ choices quickly narrowed to the Postal Service as one of the preferred choices.”

1. Is it your testimony, then, that consumers in these focus groups **did not** spontaneously assume the USPS would be an appropriate provider, and that it was **only** when the moderator proposed USPS as a provider that USPS entered the discussion? If your answer is no, then please explain.

2. What do you mean when you say, “the participants’ choices **quickly narrowed** to the Postal Service as **one of** the preferred providers?”

a. By the normal meaning of words, you are saying that the participants eliminated some of their original candidates. How did they do that, and why? Did the moderator offer suggestions as to why some should be eliminated?

b. I infer that **even after** the moderator’s intervention, the consumers **did not** eliminate private businesses as potential providers? Is that correct? So is it your testimony that, until the moderator raised the possibility of the USPS, consumers did not think of the USPS as an appropriate provider, and even after the moderator’s intervention, the consumers were unwilling to see private business as untrustworthy to provide this service? If your answer is no, then please explain.

3. When you asked the participants about “applying a secure neutral-party time and date stamp to an electronic message,” did you mean “electronic **message**”? That is to say, were the participants given the impression that you were asking them about **messaging**—about sending a communication? Or did your moderator specify some esoteric meaning of the term “message” that does not involve sending a message?

4. Would it be fair and accurate to conclude from your testimony that your focus groups showed that the public does not, of **its own** origination, see the USPS as an appropriate source for date and time stamping, and that your moderator convinced them that because time stamps involve messaging, the USPS is a logical provider?

If your answer is no, then please explain. Would it be correct to infer from your testimony that it is only because the EPM certifies communications that consumers decided the USPS would be an appropriate provider? If your answer is no, then please explain. And would it, finally, be correct to conclude that even then, the public as represented in your own focus groups retained the idea that private business is perfectly capable of providing a trustworthy date and time stamp?

RESPONSE OF POSTAL SERVICE WITNESS FOTI TO INTERROGATORIES OF DIGISTAMP

RESPONSE:

1. This research was done many years ago. I did not attend the focus groups. For the portion of my testimony you cite, I relied upon others who did observe the focus groups. Although I do not have the specific level of detail from the focus group sessions to determine the impact the moderator or the structure of the focus group sessions had in drawing the Postal Service into the discussion, it is my understanding that private firms were initially discussed as potential providers.

2.a. Again, I do not have this level of detail on the focus group sessions. See my answer above. My statement is that many focus groups participants readily embraced the view that the Postal Service seemed like a logical provider of this service, in addition to well-known private businesses with strong brands.

2.b. The focus group participants did not appear to eliminate large, well-established private businesses as potential providers. I do not have specific detail of the focus group sessions to determine what the participants thought of the appropriateness of the Postal Service as a provider before the moderator mentioned it.

3. At the time of the focus group sessions in 1995, we were in the concept stage of product development, and were trying to determine the value of the Postal

**RESPONSE OF POSTAL SERVICE WITNESS FOTI
TO INTERROGATORIES OF DIGISTAMP**

Service in a broad array of electronic services. It is my understanding, when this was discussed with focus group participants, the term “electronic message” was used in its normal sense at the time, without intending to convey anything “esoteric”.

4. No. I believe the focus group research was done professionally, without prejudice or bias. When participants were asked for candidates to provide a secure third-party date and time stamp, the Postal Service, as well as some well-established private firms, were their preferred choice. The research highlighted that people generally respect the Postal Service because of its reputation as a trusted third party.

RESPONSE OF POSTAL SERVICE WITNESS FOTI TO INTERROGATORIES OF DIGISTAMP

DS/USPS-RT1-2. You state that “In fact, 97 percent of all Electronic Postmark users, since 2003, have been in conjunction with protecting content integrity of an electronic file—and not in the transmission of a message.” (page 11, lines 12-14) DigiStamp previously introduced multiple exhibits that date back to the mid 1990’s showing the USPS markets its EPM as a means for “secure communications.”

1. Is it your testimony that, as a matter of fact, ninety-seven percent of your customers use the USPS EPM for purposes contrary to your own marketing? If your answer is no, then please explain. Is it your testimony that ninety-seven percent of your customers do not use it for communicating messages? If your answer is no, then please explain.

2. How could that possibly have happened? How, with near-unanimity, would your users have decided that the USPS EPM is not really for what your marketing says it’s for, but for something else?

3. Consider this: cell phones are designed and marketed as high-quality communications devices, up-to and until the Telco appears before the FCC. The clock that is included in this device is used 10 times more often than the calling function. Therefore, by your logic, could the Telco claim that these devices are immune from regulation: they are not phones; they are clocks? If your answer is no, then please explain.

4. In connection with the testimony quoted above, please provide a breakdown of the percentages used by customers, as follows:

a. What percentage of USPS EPMs is used to verify faxes received? (your testimony, page 11, lines 16-22)

b. What percentage of USPS EPMs is used to verify Worker Compensation claims? (your testimony, page 12, lines 1-4)

c. What percentage of USPS EPMs is used to authenticate physicians’ clinical notes? (your testimony, page 12, lines 6-11)

d. What percentage of USPS EPMs is used strictly in “documenting inventor’s notes, research results, depictions, flow charts, schematics, descriptions, etc;” and “not submitting this material to anyone”? (your testimony, page 12, lines 15-18)

RESPONSE:

1. No, it is my testimony that, based on our understanding of how customers are using the USPS EPM, the EPM is essentially not being used in the transmission of a message.

**RESPONSE OF POSTAL SERVICE WITNESS FOTI
TO INTERROGATORIES OF DIGISTAMP**

2. Customers do not normally rely on marketing materials from several years before to identify the current features of a product. In addition, in the 1990s, the Postal Service originally was proposing a suite of electronic services, under the title Electronic Commerce Service, of which the USPS EPM was only a part.

3. No, the facts of what I now understand to be posed by you as a hypothetical do not apply to the USPS EPM. Your hypothetical suggests phone service that can be and is used to carry phone messages between callers and the parties they call, without the utilization of any other service provider. USPS EPM, however, does not carry messages between two parties. The carriage of any message associated with USPS EPM requires the utilization of another service provider. Moreover, your hypothetical appears to suggest that any non-message use of the phone (i.e., as a clock) has never been featured in materials used to describe the product. USPS EPM is described as a service giving customers a way to time-stamp electronic files, providing evidence that a document or file existed at a specific time and date, and detecting changes made to the postmarked document. Your hypothetical describes a fundamentally different situation.

4. Based on my knowledge of the customer usage of the USPS EPM, below is a breakdown:

- a. 85%
- b. Less than 1%
- c. Less than 1%
- d. Less than 1%

RESPONSE OF POSTAL SERVICE WITNESS FOTI TO INTERROGATORIES OF DIGISTAMP

DS/USPS-RT1-3. You state on page 11, lines 16-19: “The current largest customer of the USPS EPM is using it for content integrity in a compliance process, and not as part of an electronic communications process. This company has integrated the USPS Electronic Postmark into an existing business process that is used to verify electronic content of faxes received.”

1. In what sense is a fax not an electronic communication process?
2. For this customer, is the application of the USPS EPM integrated into receiving the fax? That is, is the EPM applied automatically before the client is able to access the file in any way?
 - a. If so, how is that not part of an electronic communications process?
 - b. If not, how can it do what you claim—namely, verify the integrity of the content of the fax received?
 - i. If the client can access the fax in question without the EPM being applied, then obviously the client can apply, or not apply, the EPM only to such faxes as it deems it in its own interest to apply it to—hence defeating the very compliance process you’ve cited. But if the EPM is, by the nature of the business process, applied whenever a fax of the appropriate type is received, then obviously it is integrated into the electronic communications process.
 - ii. If the EPM is applied only after the client has accessed the file and submitted it to in-house processes, how does the EPM guarantee that file is the same one sent?
3. So which is it—does the USPS EPM not actually prove anything about what has been received, or it is really integral to the process of communication?

RESPONSE:

1. Although I could dispute whether or not a fax is considered an electronic media transmission (see HIPAA Security Rule, 68 Fed Register 8374, February 20, 2004, which specifically excludes faxes from its definition of electronic messages), the point to be made is that the customer business process begins upon receipt of the fax – not during the fax transmission. The USPS EPM functionality of authenticating an electronic document when presented to the USPS EPM server is indifferent as to how that document got there or where it came from. Additionally, the USPS EPM plays no role in the communication protocol of the fax.

**RESPONSE OF POSTAL SERVICE WITNESS FOTI
TO INTERROGATORIES OF DIGISTAMP**

2. Yes – The USPS EPM is a single component of a more robust customized application which was developed and integrated into the customer's business process of receiving a fax. It is similar to a protocol in which, after a hard copy communication has been received by an office, the very first thing that always happens is that the hard copy is time and date stamped by a secretary.
 - a. The functionality of the USPS EPM is limited to simply being presented an electronic file and authenticating that file. Where the electronic file originates (fax, hard copy disk, email, etc.) is not relevant to the functionality of USPS EPM authenticating the file.
 - b. Not applicable
3. The core USPS EPM functionality enables the authenticating of electronic documents, regardless of how they are presented.

RESPONSE OF POSTAL SERVICE WITNESS FOTI TO INTERROGATORIES OF DIGISTAMP

DS/USPS-RT1-4. From page 4, line 10, to page seven, line 11, you give what you describe as a “history” of USPS development of its date and time stamp. You contend that the USPS “began work” in 1996 (page 4, line 12), after two years of speeches “announcing that the Postal Service would be building an electronic postmark for use by our customers.” (page 4, lines 10-12) You later state, “When the Postal Service’s contractor first developed our electronic postmark system, there were no industry standards on which to build.” (page 8, lines 5-7.)

1. Prior to USPS’ appropriation of the standards and protocols developed by private industry, is it not true that all of the USPS efforts failed? If your answer is no, then please explain.

2. You seem to claim that the USPS has helped develop industry standards (page 8, lines 4-10). Are you claiming that the participation of the USPS somehow benefited industry by precipitating and contributing to standards that otherwise were not under development? If so, how, when, by whom, and by what means? If not, why do you introduce the development of the IETF standards as if the USPS somehow played a central role?

3. Is it not true that the USPS EPM in its current form was only introduced in 2004, and in fact uses the standards developed by private industry, not the failed efforts of earlier USPS work? If your answer is no, then please explain.

RESPONSE:

1. No. We were an active organization participating in a market which was in its infancy. As with many emerging markets, products evolved to better meet customer needs.

2. It is my belief that the Postal Service’s participation in the emerging industry provided some legitimacy to the market segment and encouraged other organizations to become engaged. We were active in discussions with many industry participants, which I believe either directly or indirectly had an impact on the development of standards by IETF. I have no information or belief about the extent of the Postal Service’s direct involvement in IETF discussions because none of the postal employees who were likely to be involved are still employed by the Postal Service. However, the Postal Service was actively involved in Policy

RESPONSE OF POSTAL SERVICE WITNESS FOTI TO INTERROGATORIES OF DIGISTAMP

Discussions inside and outside the government. For a discussion of the Postal Service's possible role as a trusted third party, see, for example, Michael S. Baum, Federal Certification Authority, Liability, and Policy: Law and Policy of Certification-based Public Key and Digital Signatures (1994). As another example, see Digital Signature Guidelines, Information Security Committee, Science and Technology Section, American Bar Association (1996), Section 1.35, (Trustworthy Systems), note 1.35.2 ("For more information, see, e.g., United States Postal Service, Draft Security Policy: A Report by the Security Policy Team (1994)").

3. No, the USPS EPM in its current technical form was introduced in 2002, although conceptually it is essentially the same as the USPS EPM introduced in the first part of the 1990s in terms of providing a time and date stamp to an electronic file and protecting the integrity of the content. The USPS EPM embraces a wide range of industry standards.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document in accordance with Section 12 of the Rules of Practice and Procedure.

Eric P. Koetting

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-2992, FAX: -5402
August 4, 2006